

**Agricultural Impact Mitigation Plan
for
City of Hutchinson (Hutchinson Utilities Commission)
Gas Transmission Pipeline
from Trimont to Hutchinson**

This Agricultural Impact Mitigation Plan is intended to implement condition A, "Agricultural Impact Mitigation Plan", of the routing permit issued by the Environmental Quality Board to the City of Hutchinson (Hutchinson Utilities Commission) (MEQB Docket No. 02-33-PRP-HUC), and to address the Findings 62-72 of the Environmental Quality Board Findings of Fact, Conclusions, and Order dated December 19, 2002. The Plan contains measures intended to mitigate, or provide compensation for, negative agricultural impacts that may occur due to pipeline construction.

The below prescribed construction standards and policies only apply to construction activities occurring partially or wholly on privately owned agricultural land. They do not apply to construction activities occurring entirely on public right-of-way, railroad right-of-way, publicly owned land, or private land that is not agricultural land. The City will, however, adhere to the construction standards relating to the repair of drainage Tile (Item No. 4 in the Plan) when drainage Tiles are encountered on public highway right-of-way, railroad right-of-way, publicly or privately owned land.

Unless an easement specifically provides to the contrary, the mitigative actions specified in the construction standards and policies set forth in this Plan will be implemented in accordance with the conditions listed below:

- A. The City agrees to provide a copy of this Plan to any landowner or landowner's designate and any tenant 48 hours prior to obtaining a voluntary easement from any landowner.
- B. All mitigative actions are subject to change by landowners and landowner's designates, provided such changes are negotiated in advance of construction and acceptable to the City. *If a landowner and/or landowner's designate has signed an easement agreement with the City prior to the submittal of this Plan to the Environmental Quality Board (and the incorporation of mitigative actions of this plan as conditions of the pipeline routing permit), the mitigative actions of this*

Plan will apply unless the landowner and/or landowner's designate subsequently negotiates with the City changes to the Plan's mitigative actions.

- C. Prior to construction, the City must put in escrow sufficient funds (according to average custom rates in the general vicinity of the pipeline) to pay contractors for mitigative actions, such as tile repair and soil restoration. Unless otherwise specified, the City will retain qualified contractors to execute mitigative actions; however, the City may negotiate with landowners or landowners' designates to carry out the mitigative actions that landowners wish to perform themselves.
- D. All mitigative actions employed by the City pursuant to this Plan, unless otherwise specified in this Plan or in an easement negotiated with an individual landowner or landowners' designate, will be implemented within 45 days following completion of the pipeline facilities on any affected property. If because of weather and landowner permission, the City needs a longer period of time, then the City shall have the burden to establish how much additional time would be reasonably necessary to complete the mitigative actions required by this Plan. Temporary repairs will be made by the City during the construction process as needed to minimize the risk of additional property damage that may result from an extended construction time period.
- E. Unless otherwise agreed to by landowners or landowners' designates, all mitigative actions pursuant to this Plan will extend to associated future construction, maintenance and repairs by the City.
- F. The City will implement the mitigative actions contained in this Plan to the extent that they do not conflict with the requirements of any applicable federal, state and local rules and regulations and other permits and approvals that are obtained by the City for the project. The provisions and requirements of this Plan shall be deemed to be included in all easements unless the easement specifically provides to the contrary.
- G. Each mitigative action contained in this Plan will be implemented to the extent that such mitigative action is not determined to be unenforceable by reason of other requirements of permits issued for the project.
- H. By no later than 45 days prior to the construction of the pipeline, the City shall provide each landowner and tenant with a telephone number and address which can be used to contact the City, both during and following the completion of construction, regarding the agricultural impact mitigation work which is performed on their property or any other construction-related matter. The City shall respond within two business days to Landowner and Tenant telephone calls and correspondence.
- I. Certain provisions of this Plan require the City to consult and/or agree with the landowner and tenant(s) of a property. The City shall engage in a good faith effort to

secure the agreement of both landowner and tenant in such cases. In the event of a disagreement between landowner and tenant, the City's obligation shall be satisfied by securing the landowner's agreement, unless the tenant can demonstrate that he or she has the superior legal rights in the matter at issue.

- J. In accordance with condition A of the routing permit, this plan becomes a condition of the routing permit and, therefore, it is the responsibility of the County Inspector to conduct inspections to determine whether the pipeline construction is in compliance with this Plan pursuant to Minn. Stat. § 116I.06, Subd. 6.
- K. If any provision of this Plan is held to be unenforceable, no other provision shall be affected by that holding, and the remainder of the Plan shall be interpreted as if it did not contain the unenforceable provision.

Definitions

Agricultural Land	=	Land which is presently under cultivation; land which has been previously cultivated and not subsequently developed for non-agricultural use; and cleared land which is capable of being cultivated. It includes land used for cropland, hayland, pastureland, managed woodlands, truck gardens, farmsteads, commercial agriculturally-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs.
City	=	City of Hutchinson (Hutchinson Utilities Commission), its successors and assigns.
County Inspector	=	The inspector designated by the County Board of each of the counties (Martin, Watonwan, Brown, Nicollet, Sibley, and McLeod Counties) pursuant to Minn. Stat. § 116I.06, Subd. 6.
Cropland	=	Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland but is currently in a government set-aside program, and pastureland formerly used as crop land.
Pipeline	=	The natural gas pipeline in Martin, Watonwan, Brown, Nicollet, Sibley, and McLeod Counties as described in the routing permit issued by the Environmental Quality Board to the City of Hutchinson (Hutchinson Utilities Commission) (MEQB Docket No. 02-33-PRP-HUC).
Landowner	=	Person(s) holding legal title to property on the pipeline route from whom the City is seeking, or has obtained, a temporary or permanent easement.
Landowner's Designate	=	Any person(s) legally authorized by a Landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such Landowner's property
Non-Agricultural Land	=	Any land that is not "Agricultural Land" as defined above.
Right-of-Way	=	Includes the permanent and temporary easements which the City acquires for the purpose of constructing and operating the pipeline.

- Tenant = Any person lawfully residing on or in possession of the land which makes up the "Right-of-Way" as defined in this Plan.
- Tile = Any artificial subsurface drainage system.
- Topsoil = The upper most part of the soil frequently designated as the plow layer, the Ap layer, or the Ap horizon, or its equivalent in uncultivated soils. It is the surface layer of the soil which has the darkest color or the highest content of organic matter.

1. Pipeline Depth

- A. Except for above-ground piping facilities, such as mainline block valves, tap valves, meter stations, etc., and except as otherwise stated in this Plan, the pipeline will be buried with the lesser of:
1. A minimum of 72 inches of topcover where it crosses agricultural land.
 2. A minimum of 54 inches of topcover where it crosses nonagricultural land.
- B. Notwithstanding A above, unless drainage determinations demand otherwise, the City shall construct its pipeline under existing and planned drainage tiles. Planned drainage tile means locations where the proposed installation of underground tile is made known in writing to the City prior to the securing of an easement on the property, and has been defined by an individual experienced in or trained in the installation or planning of drainage systems.
- C. A minimum of 12 inches of separation will be maintained between the pipeline and drainage tile unless adequate measures are taken to protect the present and future integrity of pipe and tile.
- D. Notwithstanding the foregoing, in those areas where (i) rock in its natural formation and/or (ii) a continuous strata of gravel exceeding 200 feet in length are encountered on non-agricultural land, the minimum topcover will be 30 inches.
- E. On lands subject to erosion, the City will patrol the pipeline right-of-way with reasonable frequency to detect erosion of the topcover. In no instance will the City knowingly allow the amount of topcover to erode more than 12 inches from its original level nor to be less than 36 inches, whichever measure provides for the greatest depth of cover, except as stated in D above.

2. Topsoil Replacement

- A. The *topsoil depth must be determined by a properly qualified soil scientist or soil technician who will set stakes or flags every 200 feet along the right-of-way identifying the depth of topsoil to be removed. The actual depth of topsoil, not to exceed 36 inches,* will first be stripped from the area to be excavated above the pipeline *and the adjacent subsoil storage area,* and such topsoil will be stored separately from the subsoil. Deleted: top 12 inches of topsoil
- B. All subsoil material which is removed from the trench will be placed in a second stockpile that is separate from the topsoil stockpile.
- C. In backfilling the trench, *all* stockpiled subsoil material *must* be placed back into the trench before replacing the topsoil, *or must be hauled off the landowner's premises or disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City.* Deleted: the
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- D. The topsoil must be replaced on the subsoil storage area and *over the trench* so that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be achieved. In no instance will the topsoil materials be used for any other purpose. Comment: If topsoil is only to be stripped from over the trench, then this phrase should be deleted.
- E. Where excavations are made for road, stream, drainage ditch, or other crossings, the actual depth of topsoil will be replaced as nearly as reasonably possible.

3. Travel Lane for Vehicles

In order to minimize the extent of soil compaction, all vehicles (pickup trucks, tractor-trailers, etc.) with the exception of excavation equipment will be confined to a single travel lane within the permanent or temporary right-of-way with a maximum width of 12 feet.

4. Repair of Damaged and Adversely Affected Tile Lines

If underground drainage tile is damaged by the pipeline installation, it will be repaired in a manner that assures the tile line's proper operating condition at the point of repair. If underground drainage tile lines on or adjacent to the pipeline's construction area are adversely affected by the pipeline, the City will take such actions as are necessary to insure the proper functioning of the tile lines, including the relocation, reconfiguration, and replacement of the existing tile lines. The City may elect to negotiate a fair settlement with the affected landowner for repair, relocation, reconfiguration, or replacement of the damaged drain tile. in the event

the landowner chooses to have the damaged tile repaired by the City, the following standards and policies shall apply to the tile line repair:

- A. The City will endeavor to locate all tile lines within the right-of-way prior to the pipeline's installation so repairs can be made if necessary. The City will contact affected landowners/tenants for their knowledge of tile line locations prior to the pipeline's installation. All identified Tile lines will be flagged prior to construction to alert construction crews to the possible need for tile line repairs. any tile line that is damaged, cut, or removed shall be distinctly marked by placing a highly visible flag in the trench spoil bank directly opposite such tiles. This marker shall not be removed until the Tile has been permanently repaired and such repairs have been approved and accepted by the landowner or the landowner's designate or the County or Agricultural Inspector.
- B. All tile lines will be repaired with materials of the same or better quality as that which was damaged.
- C. If water is flowing through a damaged tile line, the tile line will be immediately and temporarily repaired until such time that permanent repairs can be made.
- D. Where tile lines are severed by the pipeline trench, three-sided steel channel iron, angle iron, full-round slotted pipe or half pipe will be used to support the repaired tile lines.
 1. The support member will be of sufficient strength to support a 10 ton point load on the surface directly above the repaired tile line.
 2. The support member will extend a minimum of 2 feet into previously undisturbed soil on both sides of the trench and will be installed in a manner that will prevent it from overturning. If the tile repairs involve clay tile, the support member will extend to the first Tile joint beyond the minimum 2 foot distance.
 3. Within the trench, 1 1/2 inch river gravel, 4 inch crushed stone, sandbags, or bags of concrete will be backfilled under all tile lines to provide a positive support to the tile lines. Concrete blocks are also acceptable forms of support as are protective pads on the pipeline.
 4. There will be a minimum of 12 inches of clearance between the tile line and the pipeline. ~~If this clearance cannot be attained, the Tile line must be protected from damage that might result from the proximity of the Pipeline.~~

Deleted: If Tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repair is made within 4 days of the time damage occurred; however, the exposed Tile line will nonetheless be screened or otherwise protected to prevent the entry of foreign material, small animals, etc. into the Tile line.

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5. In no instance will the grade of the Tile line be changed.
- E. Before completing permanent tile repairs, all tile lines will be examined by suitable means on both sides of the trench for their entire length within any work area to check for tile that might have been damaged by construction equipment. If tile lines are found to be damaged, they must be repaired so they operate as well after construction as before construction began.
- F. All permanent tile line repairs must be made within 14 days following completion of construction on any affected landowner's property, taking into account weather and soil conditions.
- G. Following completion of the pipeline, the City will also be responsible for correcting all tile line repairs that fail due to pipeline construction, provided those repairs were made by the City. The City will be responsible for correcting and repairing all tile line breaks, or other damages to tile systems that occur on the permanent and construction easements to the extent that such breaks are the result of pipeline construction. For the purpose of this paragraph, it is presumed that for a period of 5 years following the completion of construction, all tile breaks or other damages to tile systems in the permanent and construction easements are the result of pipeline construction unless the City can prove otherwise. The City will not be responsible for tile line repairs which the city pays the Landowner to perform.

5. Installation of Additional Tile Lines

The City shall be responsible for installing such additional drainage tile and other drainage measures as are necessary to properly drain wet areas on the permanent and temporary easements caused by the construction and/or existence of the pipeline. For the purpose of this paragraph, for a period of 5 years following the completion of construction, it is presumed that any wet areas located in the permanent and temporary easements are caused by the construction and/or existence of the pipeline unless the City can prove that the construction and/or existence of the pipeline is not the cause of the wet areas.

Deleted: In addition, where the pipeline's route parallels an existing pipeline within a 200 foot perpendicular offset, the City shall be responsible for installing Tile and/or other drainage measures as necessary to properly drain the area between the two pipelines to the extent the wet areas between the pipelines are caused by the construction and/or existence of the pipeline.

6. Rock Removal

The following conditions with respect to rock removal shall apply on agricultural land:

- A. The top 6 feet or the actual depth of topcover, whichever is less, within the pipeline trench, bore pits, or other excavations will not be backfilled with soil containing rocks of any greater concentration or size than existed prior to the pipeline's construction.

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- B. If trenching, blasting, or boring operations are required through rocky terrain, suitable precautions will be taken to minimize the potential for oversize rocks to become interspersed with the soil material that is placed back in the trench.
- C. Soil removed from the pipeline trench, bore pits, or other excavations containing unacceptable rock concentrations or sizes (see 6.A. above) will be hauled off the landowner's premises or disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City. The City may elect to remove excess rock from the soil and use the soil as backfill material.
- D. After completion of the compaction alleviation activities required in Section 7, below, the City shall remove rocks which are 2 inches in diameter from the top 12 inches of disturbed soil on the entire construction area. The amount of rock on the right-of-way after construction will be similar to that on adjacent off-right-of-way areas. Rocks so removed will be hauled off the landowner's premises or disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City.

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7. Removal of Construction Debris

All construction-related debris and material which is not an integral part of the pipeline will be removed from the landowner's property. (Note: Such material to be removed would include litter generated by the construction crews.)

8. Compaction, Rutting, Fertilization, Liming, and Soil Restoration

- A. Compaction will be alleviated on all agricultural land traversed by construction equipment. Cropland that has been compacted will be plowed with three passes of *cultivation equipment recommended by the appropriate county Soil and Water Conservation District* at least 18 inches deep and all pasture and woodland will be plowed with three passes or *cultivation equipment recommended by the appropriate county Soil and Water Conservation District* at least 12 inches deep. In areas where Topsoil has been segregated, the City will first plow the subsoil with three passes or *cultivation equipment recommended by the appropriate county Soil and Water Conservation District* at least 12 inches deep before replacing the segregated Topsoil. *However alleviation of compaction must during suitable weather conditions, and must not be performed when weather conditions have caused the soil to become so wet that activity to alleviate compaction would damage the future production capacity of the land as determined by the soil restoration contractor, landowner, landowner's designate, or county inspector.*

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- B. In the case of a claims for damages related to soil compaction, upon request, the City itself shall pay for, or at the landowner's or tenant's option, reimburse the landowner or tenant for the cost of having a member of the Minnesota Association of Professional Soil Scientists, who is also licensed by the State of Minnesota, or an appropriately qualified Minnesota licensed professional engineer perform a soil survey for bulk density and field moisture on the right-of-way and on adjacent land in the same field containing the same soil map units. Said soil survey shall be performed pursuant to the protocol identified in the USDA's *Soil Survey Methods Manual* (Soil Survey Investigations Report No. 42, Version 3.0, January 1996, which may be found at <http://soils.usda.gov/procedures/lmm/ssir42.pdf>. In particular, see Bulk Density Cores (Method 4A3), and Field Moisture (Method 4A3a)), or other method as approved by the Landowner, such as a soil penetrometer. In addition, where there are row crops, all samples shall be taken in the middle of the row, but not in rows where the drive wheels of farm equipment normally travel. As long as the adjacent lands contain the same soil map units, the City waives any defenses it may possess that the selected adjacent land is not suitable, for purposes of establishing the preconstruction conditions that existed in the right-of-way. Copies of the results of the above-described survey shall be provided to landowners, landowner's designates and tenants at the City's expense within 45 days of the City's receipt of a request to perform such a survey.
- C. The City will restore all construction rutted land to as near as practical to its pre-construction condition.
- D. The City will reasonably compensate landowners and/or tenants, as appropriate, for damages caused by the City during pipeline construction, including the cost of soil restoration. The cost of applying fertilizer and manure or other material with a high level of organic material will be included in the damages paid, thereby allowing the landowner and/or tenant to apply the appropriate type and amounts of fertilizer, lime and other material as needed depending on the crops contemplated and the construction schedule.
- E. If there is any dispute between the landowner and the City as to what areas need to be ripped or chiseled, the depth at which compacted areas should be ripped or chiseled, or the necessity or rates of lime, fertilizer, and organic material application, the appropriate county Soil and Water Conservation District's opinion shall be considered by the City and the landowner.

9. Land Leveling

Following the completion of the pipeline construction, the City will restore any Right-of-Way to its original pre-construction elevation and contour. If in the future, uneven settling occurs or surface drainage problems develop, as a result of pipeline construction, the City will provide additional land leveling services, or compensation, within 45 days of receiving a landowner's or tenant's verbal or written notice, weather, landowner and tenant permitting.

10. Prevention of Soil Erosion

A. The City will work with landowners and tenants to prevent excessive erosion on lands disturbed by construction. Reasonable methods will be implemented to control erosion.

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B. *Prior to construction of the pipeline, the following methods must be used to control erosion:*

1. *The planting of a crop by the landowner or tenant. However, if a crop is planted before construction of the pipeline, the City must harvest, chop, and dispose of the crop prior to construction as directed by the landowner or tenant; or*
2. *The seeding of rye, oats, or other suitable and economical cover crop on the right-of-way; or*
3. *Other effective methods such as mulching as mutually agreed upon by the City and the landowner or tenant and as recommended by the appropriate county Soil and Water Conservation District.*

C. *During construction, the City will use suitable means of controlling erosion as recommended by the appropriate county Soil and Water Conservation District.*

D. *After construction, the right-of-way must be seeded with rye, oats, or other suitable and economical cover crop or mulched according to the recommendation of the appropriate county Soil and Water Conservation District.*

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11. Repair of Damaged Soil Conservation Practices

All soil conservation practices (such as terraces, grassed waterways, *ridge till*, etc.) which are damaged by the pipeline's construction will be restored to their pre-construction condition.

12. Clearing of Trees and Brush from the Easement

- A. If trees are to be removed from the right-of-way, the City will consult with the landowner or landowner's designate to see if there are trees of commercial or other value to the landowner.
- B. If there are trees of commercial or other value to the Landowner, the City will allow the Landowner the right to retain ownership of the trees with the disposition of the trees to be negotiated prior to the commencement of land clearing and included in the easement Plan.
- C. Unless otherwise restricted by federal, state or local regulations, the City will follow the landowner's or landowner designate's desires as stated in the easement agreement regarding the removal of tree stumps that the City might otherwise leave in the ground.
- D. Unless otherwise restricted by federal, state or local regulations, the City will follow the landowner's, landowner designate's, and the tenant's desires as stated in the easement agreement regarding the disposal of trees, brush, and stumps of no value to the landowner by burning, burial, etc., or complete removal from any affected property.

13. Interference with Irrigation Systems

- A. If the pipeline and/or temporary work areas intersect an operational (or soon to be operational) spray irrigation system, the City will establish with the landowner or landowner's designate and any tenant, an acceptable amount of time the irrigation system may be out of service.
- B. If, as a result of pipeline construction activities, an irrigation system interruption results in crop damages, either on the pipeline right-of-way or off the right-of-way, the landowner and/or the tenant will be reasonably compensated for all such crop damages.
- C. If it is feasible and mutually acceptable to the City and the landowner or landowner's designate and any tenant, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which the pipeline is also being constructed.

14. Mitigation for Other Natural Resource Impacts

Unless otherwise required by a state or federal agency or other governmental body, the City will not mitigate for impacts to other natural resources (wetlands, woodlands, etc.) utilizing agricultural land as mitigation lands. If agricultural land is

used for woodland/wetland impact mitigation, the City will attempt to negotiate a mitigation ratio not to exceed a 1:1 ratio.

15. Ingress and Egress Routes

Prior to the pipeline's installation, the City and the landowner and the tenant will reach a mutually acceptable agreement on the route that will be utilized for entering and leaving the pipeline right-of-way should access to the right-of-way not be practical or feasible from adjacent segments of the pipeline right-of-way or from public highway or railroad right-of-way.

16. Temporary Roads

- A. The location of temporary roads to be used for construction purposes will be negotiated with the landowner and the tenant.
- B. The temporary roads will be designed to not impede proper drainage and will be built to minimize soil erosion on or near the temporary roads.
- C. Upon abandonment, temporary roads may be left intact through mutual Plan of the landowner, the tenant and the City unless otherwise restricted by federal, state or local regulations.
- D. If the temporary roads are to be removed, the right-of-way upon which the temporary roads are constructed will be returned to its previous use and restored to equivalent condition as existed prior to their construction, including fertilization, liming, and soil restoration as described in item 8 above.

17. Weed Control

- A. On any right-of-way over which the City has jurisdiction as to the surface use of such land (i.e., valve sites, metering stations, compression stations, etc.), the City will provide for weed control in a manner that does not allow for the spread of weeds onto adjacent lands used for agricultural purposes. Any weed control spraying performed will be done so by a State of Minnesota licensed pesticide applicator.
- B. The City will be responsible for reimbursing all reasonable costs incurred by landowners or tenants of land adjacent to surface facilities when the landowners or tenants must control weeds on their land which can be reasonably determined to have spread from land accommodating pipeline surface facilities, should the City fail to do so after being given a written notice and a 45 day opportunity to respond.

18. Pumping of Water from Open Trenches

- A. In the event it becomes necessary to pump water from open trenches, the City will pump the water in a manner that will avoid damaging adjacent agricultural land, crops, and/or pasture. Such damages include, but are not limited to: inundation of crops for more than 24 hours, deposition of sediment in ditches and other water courses, and the deposition of gravel in fields, pastures, and any water courses.
- B. If it is impossible to avoid water-related damages as described in 18.A. above, the City will reasonably compensate the landowner and/or tenant for crop damages, and will either restore the land, pasture, water courses, etc. to their preconstruction condition or reasonably compensate the landowner and/or tenant for damage to such land, pasture, water courses, etc.
- C. All pumping of water shall comply with existing drainage laws, local ordinances relating to such activities, and provisions of the Clean Water Act.

19. Construction in Wet Conditions

- A. The landowner or the landowner's designate, and/or the tenant may request that the County Inspector visit the construction site on landowner's property to make a determination as to whether weather conditions have caused the soil in the construction area on the landowner's property to become so wet that continued construction activity would damage the future production capacity of the land included in the construction area. Should the County Inspector determine that, due to wet conditions, continued construction activity would result in damage to the future production capacity of the land included in the construction area, then he or she may temporarily halt the construction activity on that landowner's property (not on the entire construction spread) until the County Inspector consults with supervisory personnel of the City or of the contractor operating for the City.
- B. If construction is continued over the County Inspector's objection, and damage results therefrom, the landowner may seek a determination of damages. For the purpose of this paragraph, it is presumed that any damage occurring after the County Inspector's objection is caused by any construction that takes place after the County Inspector's objection unless the City can prove otherwise.

20. Procedures for Determining Construction-Related Damages

The City must comply with the following procedures:

- A. Prior to any construction related activities, the City's right-of-way agents together with the landowner, the landowner's designate and/or the tenant, will examine each property to inventory crops, livestock, fences, irrigation systems, tiles, etc.
- B. The City will prepare a "Schedule of Damage Compensation" as to the values, quantities and limits of prices to be paid for damages. *In addition to actual damages to crops, other property, and soils, damages covered by the "Schedule of Damage Compensation" must include values, quantities and limits of prices to be paid for increased production costs incurred by any landowner, landowner's designate, or tenant in the 2003 growing season due to the presence of an excavated area of the field as a result of pipeline construction. Problems likely to cause increased production costs include, but are not limited to, inefficient cultivation, planting, and harvesting measures due to the location of relatively loose soils of a freshly backfilled trench crossing a field, or the disruption of a normal crop rotation caused by an inability to plant a certain crop (such as sugar beets) due to the presence of a freshly backfilled trench crossing a field. The "Schedule of Damage Compensation" may include reduced values, quantities and limits of prices to be paid for increased production costs where the landowner, landowner's designate, or tenant has knowledge of the precise location of the right-of-way and typical trench profile on or before May 1, 2003 and, therefore, is able to plant the crop in such a manner so as to accommodate the pipeline construction location. The "Schedule of Damage Compensation" must include higher values, quantities and limits of prices to be paid for increased production costs where the trench crosses a field diagonally and creates triangulated field shapes that are more difficult to farm than instances where the trench crosses a field near to and parallel to a field border.* A copy of the "Schedule of Damage Compensation" shall be provided to each landowner, landowner's designate and tenant by no later than 48-hours prior to the date set for the examination identified in subparagraph A. This information will be determined through research of local agricultural reports and records, current local market conditions and values and contact with local agricultural and livestock commodities brokers. With respect to crops, damages will be based on market price. Damages to other property will be based on replacement cost. Damage to soils will be based on the reasonable costs of restoration. The above reference "Schedule of Damage Compensation" identifies the City's position concerning damages, however. Neither the landowners nor the landowner's designates, or tenants are in any way bound to accept the City's position.

- C. Within 45 days after the completion of construction of the pipeline, a City representative will personally meet with all landowners, landowner's designates and/or tenants to investigate and measure the losses or inconveniences caused by pipeline construction activities.
- D. By no later than 30 days after the meeting identified in subparagraph C, the City shall provide the landowner, the landowner's designate, and the tenant with a detailed itemized list of the damages the City proposes to pay the landowner, landowner's designate and the tenant.
- E. Prior to the construction of the pipeline, the City shall provide to each landowner, landowners designate and/or tenant the name, telephone number and mailing address of the City representative assigned to that geographic area and responsible for the liaison activities on behalf of the City. This City representative will be the contact person both during construction and operational related activities.
- F. The City shall respond within 48 hours to any landowner and/or tenant issues or concerns both during the construction and long-term operational activities.

21. Advance Notice of Access to Private Property

- A. The City will provide the landowner and tenant with a minimum of 24 hours prior notice before accessing his/her property for the purpose of constructing the pipeline.
- B. Prior notice shall first consist of a personal contact or a telephone contact, whereby the landowner and the tenant is informed of the city's intent to access the land. If the landowner and tenant cannot be reached in person or by telephone, the City will mail or hand-deliver to the landowner and the tenant's home a dated, written notice of the City's intent. The landowner and tenant need not acknowledge receipt of the written notice before the City can enter the landowner's property.

22. Indemnification

For any pipeline installation covered by this plan, the City or its successor in interest will indemnify all landowners and tenants, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, (including, but not limited to, crop loss, repairs to irrigations systems and Tile, real and personal property damages) costs, losses, and reasonable expenses resulting from or arising out of the laying, maintenance, removal, repair, use or existence of such pipeline, including damage to such pipeline or any of its appurtenances and the leaking of its contents, except where such claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or

willful omissions of such owners, their heirs, successors, legal representatives, and assigns. This section shall not preclude the City from securing releases from future damage claims from landowners and tenants as part of damage settlements, as long as the subject matter of the releases does not exceed the subject matter of the corresponding settlements. However, the above-referenced releases shall not be included as part of any easement ~~agreements~~ obtained by the City.

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23. Damages

The City shall reasonably compensate landowners and/or tenants for damages, losses or inconvenience caused by the City which occurred on or off the pipeline Right-of-Way associated with construction, installation, operation, maintenance and existence of the pipeline. These damages, losses or inconveniences may include but are not limited to loss of crops, pasture, timber, trees, produce, livestock, fences, drain Tiles, irrigation systems or equipment.

24. **Excavation After Pipeline Installation**

If at any time after pipeline installation the landowner must make repairs to a tile line that lies within the pipeline right-of-way, or is to install new planned drainage tile as described in item 1B above, the City must, at its own expense, excavate and expose the pipeline.

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25. Agent for Service of Process

The City shall appoint an agent for service of process and shall provide written notice setting out the name, address and telephone number of said agent to each landowner, landowner's designate and tenant within 30 days of the submittal of this plan to the Environmental Quality Board.

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